

REMARKS

Claims 1-10 and 13-17 are now pending in this application.

Prosecution was reopened regarding these claims after the Examiner considered the Appeal Brief filed on December 29, 2003. The Office Action now rejects claims 1-10 and 13-17 under 35 U.S.C. §103(a) as being unpatentable over U.S. Patent No. 6,117,687, issued to Hugh (Hugh) in view of newly-cited U.S. Patent No. 6,508,989, issued to Urrusti et al. (Urrusti).

Applicants respectfully traverse all of the rejections as the cited references do not suggest or motivate the invention as recited in any of claims 1-10 and 13-17. Namely, both independent claims of Applicants include a VOC filter that is disposed within a gaseous chamber. Neither reference teaches or suggests a VOC filter. The particle filters of Hugh and Urrusti do not filter VOC's. Moreover, the Urrusti reference actually teaches away from combination with Hugh in that Urrusti teaches against disposing its particle (non-VOC) filter within its gaseous chamber. Furthermore, neither prior art reference teaches or suggests using more than one particle (or any other) filter. As such, neither reference can be said to teach, suggest or motivate one of a VOC filter and a HEPA filter disposed circumferentially about the other of the VOC filter and the HEPA filter, as recited in independent claim 10.

Among other features, claim 1 generally recites a VOC filter that is disposed within a gaseous environment of a chamber. Disposing the VOC filter within the chamber eliminates VOC's from the gaseous environment. As disclosed

in Applicants' specification, VOC's include alcohols, aldehydes, ketones, esters, aliphatics, aromatics, chlorinated hydrocarbons and other chemicals that result from cleaning agents, off-gassing laboratory equipment and plasticware. VOC's cannot be filtered using a particle filter. As such, the presence of the claimed VOC filter in Applicants' incubator helps protect samples within the incubator chamber from harmful chemical exposure. Positioning the VOC filter within the chamber simplifies maintenance of the incubator. A researcher may easily remove and replace the VOC filter from within the chamber without removing side panels or other hardware that might involve exposure to high voltage wiring and/or components.

The Office Action admits on page 2 that the incubator of Hugh fails to include a VOC filter. The Office Action relies on Urrusti to make up for this deficiency. However, Urrusti likewise fails to disclose the claimed VOC filter feature of Applicants. As shown in Fig. 1 of Urrusti, the air sterilization system attempts to sterilize air in a child's chamber 22 by treating air separated from the chamber 22 by a tray 4. Air in this adjacent, distinct chamber is exposed to a particle filter 6, a temperature sensor 7, a fan 1, a sterilization zone 8 and a heater 9. Air in the sterilization zone 8 is irradiated by an irradiation lamp 13 to kill germs.

There is no teaching or suggestion that the Urrusti filter 6 is a VOC filter. In fact, the text relied upon by the Office Action at column 1, lines 16-18 actually indicates that only a particle filter is contemplated, "a filter that must retain particles." One skilled in the art will appreciate that particle/HEPA filters routinely

retain particles smaller than 0.3 microns, which may be inorganic, organic or even germs. However, such a particle filter cannot filter VOC's as recited in claim 1.

The absence of a VOC filter within the disclosure of Urrusti speaks to the disparate purposes and practices between the prior art reference and the invention of Applicants. The Urrusti sterilization system claims to avoid the introduction of contaminants like VOC's by minimizing the occasion of opening the chamber 22 (column 1, lines 18-22). Namely, the sterilization chamber 8 and filter 6 are positioned outside of the chamber 22 to avoid the introduction of pollutants that would otherwise be introduced should the chamber 22 be opened while servicing the particle filter 6, for instance. For this reason, the sterilization apparatus of Urrusti does not need, suggest or motivate a VOC filter.

Moreover, there is no motivation to combine the teachings of Urrusti with that of Hugh. Urrusti teaches against positioning its particle filter 6 within its gaseous chamber 22, as disclosed in Hugh. The filter 6 and irradiation equipment 8, 13 of Urrusti are kept separate from the gaseous chamber 22 to avoid exposing the child (column 3, lines 13-23). To this end, the tray 4 separates the chamber 22 from the filter 6 and sterilization chamber 8. As discussed above, Urrusti also teaches that locating air filtration/sterilization equipment outside of the chamber avoids the introduction of pollutants during servicing. Thus, the Urrusti reference actually teaches away from placing a HEPA/particle filter inside a chamber as disclosed in Hugh.

For all of the above reasons, Applicants respectfully submit that the 35 U.S.C. §103(a) rejection of independent claim 1 should be withdrawn.

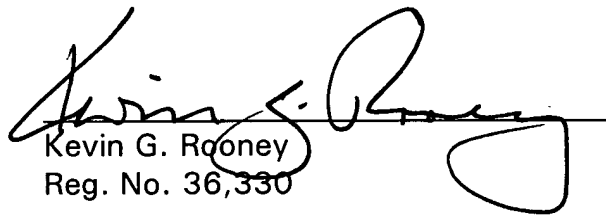
Moreover, each of claims 2-9 that depend from claim 1 include at least one additional feature, and thereby further distinguish over any combination of Hugh and Urrusti. As such, reconsideration and allowance of claims 1-9 are respectfully requested.

Independent claim 10, among other features, includes a HEPA filter removably mounted within a chamber and a VOC filter removably mounted within the chamber and coupled to the HEPA filter. As discussed in connection with the rejection of claim 1, neither reference teaches, suggests or motivates a VOC filter. Moreover, neither prior art reference includes more than any one (particle/HEPA) filter. And why should the prior art references include more than one filter? A single HEPA filter is adequate to remove most particulate matter, and neither reference is concerned with removing VOC's. For the sake of argument, even if the particle filter of Urrusti were anything other than a HEPA filter, Urrusti still teaches away from positioning its filter within a gaseous chamber, let alone coupling it to another filter as recited in claim 10. For at least these reasons, Applicants respectfully submit that the 35 U.S.C. §103(a) rejection of independent claim 10 should be withdrawn, as should the rejections of those claims depending upon claim 10. In fact, dependent claims 13-17 include additional features that further distinguish the invention of Applicants from the cited prior art. As such, reconsideration and allowance of claims 10 and 13-17 are respectfully requested.

Applicants therefore submit that all pending claims are patentable over the prior art of record and reconsideration and allowance of all pending claims are accordingly requested. If the Examiner has any questions regarding the foregoing, or which might otherwise further this case onto to allowance, the Examiner may contact the undersigned at (513) 241-2324. Moreover, if there are any charges or credits that are necessary to complete this communication, please apply them to deposit account 23-3000.

Respectfully submitted,

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